

EXHIBIT A

Burbank Non-Housing DDR – Part C-2 Debt Repayment

Health & Safety Code 34179.5 (b)(2) defines an enforceable obligation for purposes of the Due Diligence Review (DDR). This definition lists 3 different categories of items that fit within the meaning of enforceable obligation, as follows:

““Enforceable obligation” includes (1) any of the items listed in subdivision (d) of Section 34171, (2) contracts detailing specific work to be performed that were entered into by the former redevelopment agency prior to June 28, 2011, with a third party that is other than the city, county, or city and county that created the former redevelopment agency, and (3) indebtedness obligations as defined in subdivision (e) of Section 34171.”
(Underlined numbers added by City for ease of reading.)

Burbank’s City/Agency loans are within Health & Safety Code section 34171 (d)(1)(B), which covers loans of moneys borrowed by a redevelopment agency for a lawful purpose to the extent they are required to be paid back. The loans repaid by the Agency to City during 2011 were required to be repaid by the terms of the original City Loan Agreement to Agency entered into in 1970 and as thereafter amended, as well as by the documents evidencing specific debts such as promissory notes. Therefore, the Burbank City/Agency loans fall squarely in the first category of enforceable obligations listed in 34179.5 (b)(2), see above.

Health & Safety Code section 34171(d)(2) also states “For purposes of this part, ‘enforceable obligation’ does not include any agreements, contracts, or arrangements between the city, county, or city and county that created the redevelopment agency and the former redevelopment agency.” What is critical to note, however, is that the “part” being referred to in Health & Safety Code section 34171(d)(2) did not become effective until February 1, 2012. The plain meaning of the language is that as of February 1, 2012, city/agency loans are no longer enforceable obligations unless they meet an exception listed therein. (Burbank City/Agency debt does meet the exception since the Loan Agreement was entered into in 1970, within 2 years of formation.) The legislation, however, does not imply that before February 1, 2012, these loans were NOT enforceable obligations. Prior to February 1, 2012, Burbank City/Agency loans were enforceable obligations under Part 1.80 of AB 26. It is critical to assess enforceability at the time the repayment was made, not on what took place afterward.

In Burbank’s situation part of Agency’s debt to City was repaid in March 2011 pursuant to terms in loan agreements and/or promissory notes evidencing the debt.